

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1438

Introduced by Assembly Member Laird

February 23, 2007

An act relating to state property to amend Sections 2 and 3 of Chapter 188 of the Statutes of 1999, relating to conveyances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1438, as amended, Laird. ~~State property: leases~~ Conveyances: DeLaveaga Park.

Existing law requires all real property within the DeLaveaga Park Property owned by the state, other than that portion leased to the City of Santa Cruz, to be used for a National Guard camp of instruction and, if that use is determined by the Adjutant General to be no longer necessary for that purpose, requires the Department of General Services to reconvey the real property to the city, to be used in perpetuity for public recreational purposes. The department is also directed to convey to the city its fee interest in that portion of the DeLaveaga Park Property leased to the city to be used as a municipally owned public golf course, if the city simultaneously conveys in fee to the state the portion of the property that is leased to the state.

This bill would describe the portion of real property within the DeLaveaga Park Property leased to the City of Santa Cruz as comprising approximately 40 acres to be referred to as “the armory site,” and make various conforming changes.

The bill would delete the provisions requiring the Department of General Services to reconvey the real property to the city if the Adjutant General determines the property to be no longer necessary for the

purpose of a camp of instruction for the National Guard, and would instead authorize the department, in that instance, to sell, lease, exchange, or otherwise convey the armory site subject to the condition that the property be used in perpetuity for public recreational purposes. It would specify that the City of Santa Cruz would have the first right to acquire in fee or by leasehold all or part of the armory site before the department offers it to a 3rd party for sale, exchange, other conveyance, or for lease, respectively, subject to the condition that the real property be used in perpetuity for public recreational purposes. It would specify that nothing in these provisions would be construed to preclude the continued use of the armory building for the provision of services to homeless persons.

The bill would also delete the provisions requiring the city to simultaneously convey in fee to the state the portion of the DeLaveaga Park Property that is leased to the state, and instead require the city to simultaneously quitclaim any interest it has in the armory site, as a condition for the department conveying its fee interest in the portion of the park property leased to the city to be used as a municipally owned public recreational area. It would authorize, rather than direct, the department to convey its fee interest in this regard.

~~Existing law authorizes the Director of General Services to dispose of surplus state property subject to specified criteria, including authorization by the Legislature.~~

~~This bill would express the intent of the Legislature to honor the intent and obligations of the City of Santa Cruz and the state with regard to a lease of the DeLaveaga Park property in the City of Santa Cruz, and set forth various findings and declarations in that connection.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 2 of Chapter 188 of the Statutes of 1999*
2 *is amended to read:*

3 Sec. 2. (a) All real property within the DeLaveaga Park
4 Property owned in fee by the State of California, other than that
5 portion currently leased to the City of Santa Cruz, *comprising*
6 *approximately 40 acres and hereafter referred to as the “armory*
7 *site,”* shall be used by the state exclusively for a camp of
8 instruction for the National Guard. If, however, the Adjutant

General determines that the ~~real property~~ *armory site*, within the foreseeable future, will no longer be necessary for a National Guard camp of instruction and notifies the Department of General Services of that determination, the Department of General Services shall, ~~within 180 days of that notification, convey the real property in fee to the city, subject only to the condition that the real property be used by the city in perpetuity for public recreational purposes; and for no other compensation or consideration may sell, lease, exchange, or otherwise convey the armory site subject to the condition that the real property be used in perpetuity for public recreational purposes.~~

(b) (1) Notwithstanding any other provision of law, the City of Santa Cruz shall have the first right to acquire in fee, consistent with Section 11011.1 of the Government Code, all or part of the armory site parcel, prior to the Department of General Services selling, exchanging, or otherwise conveying the armory site to a third party pursuant to subdivision (a).

(2) Notwithstanding any other provision of law, the City of Santa Cruz shall have the first right to acquire by leasehold all or part of the armory site parcel, prior to the Department of General Services leasing the armory site to a third party pursuant to subdivision (a).

(3) Any lease, exchange, or other conveyance of the armory site to the City of Santa Cruz pursuant to this subdivision shall be subject to the condition that the real property be used in perpetuity for public recreational purposes. However, nothing in this section shall be construed to preclude the continued use of the armory building for the provision of services, including, but not limited to, shelter services, to homeless persons.

(4) If the City of Santa Cruz does not acquire the armory site parcel pursuant to this subdivision, the Department of General Services may sell, lease, exchange, or otherwise convey the armory site pursuant to subdivision (a).

~~(b)~~

(c) Notwithstanding any other provision of law that limits reversionary rights to real property, including, but not necessarily limited to, Chapter 5 (commencing with Section 885.010) of Title 5 of Part 2 of Division 2 of the Civil Code, title to the ~~property~~ *armory site* described in subdivision (a) shall revert to the possession, control, and ownership of the state if any of the

1 conditions for the use of ~~that real property~~ *the armory site* are
2 violated. If the ~~property is conveyed to the City of Santa Cruz~~
3 *armory site is sold, leased, exchanged, or otherwise conveyed*, any
4 conditions for the use of ~~that property~~ *the armory site* prescribed
5 in subdivision (a) shall be incorporated in the instrument conveying
6 the property ~~to the City of Santa Cruz~~.

7 *SEC. 2. Section 3 of Chapter 188 of the Statutes of 1999 is*
8 *amended to read:*

9 *Sec. 3. (a) The Department of General Services is hereby*
10 *directed, within 180 days of the effective date of this act, to may*
11 *convey to the City of Santa Cruz, in accordance with the June 27,*
12 *1967, Lease Exchange Agreement between the state and the City*
13 *of Santa Cruz, its fee interest in that portion of the DeLaveaga*
14 *Park Property that the state is currently leasing to the city,*
15 *comprising approximately 83 acres, and which that the city is*
16 *currently using as part of the DeLaveaga Golf Course, if, in*
17 *accordance with that agreement, the city simultaneously conveys*
18 *in fee to the State of California that portion of the DeLaveaga Park*
19 *Property that the city is currently leasing to the State of California*
20 *pursuant to the lease exchange agreement, comprising*
21 *approximately 98 acres of the “upper portion” of the DeLaveaga*
22 *Park Property, to be used by the state for public recreational*
23 *purposes* *quitclaims any interest it has in the armory site described*
24 *in subdivision (a) of Section 2 of this act.* The state’s conveyance
25 to the city shall be conditioned upon the real property being used
26 as a municipally owned public golf course for as long as the city
27 determines and thereafter used, in perpetuity, as a municipally
28 owned public recreational area.

29 (b) Notwithstanding any other provision of law that limits
30 reversionary rights to real property, including, but not necessarily
31 limited to, Chapter 5 (commencing with Section 885.010) of Title
32 5 of Part 2 of Division 2 of the Civil Code, title to the property
33 described in subdivision (a) shall revert to the possession, control,
34 and ownership of the state if any of the conditions for the use of
35 that real property are violated. If the property is conveyed to the
36 City of Santa Cruz, any conditions for the use of that property
37 prescribed in subdivision (a) shall be incorporated in the instrument
38 conveying the property to the City of Santa Cruz.

39 ~~SECTION 1. The Legislature finds and declares all of the~~
40 ~~following:~~

1 ~~(a) DeLaveaga Park comprises 540 acres on the northeastern~~
2 ~~boundary of the City of Santa Cruz, along the coastal terrace~~
3 ~~seaward of the Santa Cruz Mountain Range.~~

4 ~~(b) More than a century ago, the DeLaveaga Park property was~~
5 ~~bequeathed to the City of Santa Cruz and County of Santa Cruz.~~
6 ~~The County of Santa Cruz subsequently relinquished its title to~~
7 ~~the property to the city.~~

8 ~~(c) On March 4, 1899, the Legislature passed a statute to~~
9 ~~establish, at or near the City of Santa Cruz, a camp of instruction~~
10 ~~for the California National Guard. The statute authorized the state~~
11 ~~to accept property in donation for the camp of instruction.~~

12 ~~(d) On March 27, 1901, pursuant to the 1899 enactment, the~~
13 ~~City of Santa Cruz and County of Santa Cruz jointly conveyed,~~
14 ~~by way of donation, a portion of the DeLaveaga Park property to~~
15 ~~the State of California for the state camp of instruction for the~~
16 ~~California National Guard.~~

17 ~~(e) On June 27, 1967, to facilitate the development of a~~
18 ~~municipal golf course, the state leased a portion of previously~~
19 ~~donated land occupied by the California National Guard to the city~~
20 ~~in exchange for a lease on a city parcel within the park.~~

21 ~~(f) Under the terms of the 1967 Lease Exchange Agreement,~~
22 ~~the city and state intended the exchange of titles to the two parcels,~~
23 ~~so that the city and the state would each hold title to the lands it~~
24 ~~uses. However, 40 years after entering into the Lease Exchange~~
25 ~~Agreement, the parties remain interested in resolving outstanding~~
26 ~~issues and completing a transaction based on the past agreement.~~

27 ~~SEC. 2. It is the intent of the Legislature by this act to honor~~
28 ~~the city and state's intent and obligations with regard to the~~
29 ~~DeLaveaga Park property in the City of Santa Cruz.~~